
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

THEODORE ROOSEVELT ARTHUR,

Plaintiff,

versus

LORIE DAVIS, DIRECTOR,
TDCJ-CID, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:16-CV-220

MEMORANDUM OPINION AND ORDER

Plaintiff, Theodore Roosevelt Arthur, an inmate confined at the Larry Gist Unit, with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants C. Hodges, Allison Becerra, Warden C. Siringi, and Director Lorie Davis.¹

The court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends all of plaintiff's official capacity claims be dismissed and plaintiff's claims against defendants Siringi and Davis in their entirety be dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

¹ Plaintiff sued former Director William Stephens. Lorie Davis, as acting Director, has been substituted in his place.

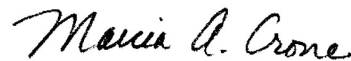
After careful consideration, the court finds plaintiff's objections are without merit. Plaintiff's objections argue that his claims against defendants Hodges and Becerra should not be dismissed. Only plaintiff's official capacity claims against these two defendants are subject to dismissal. Plaintiff's claims against any TDCJ defendant in their official capacity are barred as Eleventh Amendment immunity extends to suits for monetary damages against state officials in their official capacities as well. *See Buckhannon Bd. and Care Home, Inc. v. W. Va. Dep't of Health and Human Res.*, 532 U.S. 598, 609 n. 10 (2001) (recognizing "[o]nly States and state officers acting in their official capacity are immune from suits for damages . . ."). Plaintiff's individual capacity claims against defendants Hodges and Becerra shall proceed.²

Plaintiff has no objections to the recommendation that his claims against defendants Davis and Siringi be dismissed.

ORDER

Accordingly, the objections of the plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A partial judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So ORDERED and SIGNED this 27th day of September, 2017.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE

² The Magistrate Judge has already ordered these two defendants to answer and an answer is on file (docket entry nos. 16 & 21).